

REMARKS/ARGUMENTS

STATUS OF THE CLAIMS

Applicants have amended Claims 1, 9, 12, 13, 18, 22, 24-25, 26, 30-32, and 39. Applicants have amended Claims 22 and 24-25 only to correct an error in the preamble. Claims 1-45 are currently pending.

CLAIMS REJECTION – 35 U.S.C. § 102

Independent Claim 1

Claim 1 stands rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,158,510 issued to Lemire (hereinafter “Lemire”).

Claim 1 specifies “A patient-positioning device comprising: a main portion having a first side configured to support a portion of a patient’s body, and a second side configured to rest on a surface; and a hanging tab extending from the main portion.”

Lemire discloses an exercise belt 10, a tether 11, and an attachment strap 16. *Lemire*, col. 5, lines 8-12. The belt 10 includes an elongated flexible rectangular panel 18 and a pad 28. *Id.* at col. 5, lines 34-39. The pad 28 can be manufactured as a rectangular section of semi-rigid foam rubber. *Id.* The attachment strap 16 can be attached around structural members 60 on exercise machines 52. *Id.* at col. 7, lines 17-21. If a user 48 is using exercise equipment 52, such as a stationary bicycle 66 as shown in Figure 7, the attachment strap 16 is affixed to a central structure member 60, such as the handle bar support. *Id.* at col. 8, lines 33-36. The user 48 sits on the seat and places her feet on pedals 68, which when in motion, creates an up-and-down motion and a side-to-side rolling motion of the user 48. *Id.* at col. 8, lines 36-39. The side-to-side rolling motion does not twist the belt 10 on the user’s waist 50 primarily due to the elasticity of connecting members 12. *Id.* at col. 8, lines 39-42. The belt 10 supports the user 48 sufficiently to allow the user 48 to lean back into an upright position, placing some of her weight

against the belt 10, while tension from the tether 11 pulls her waist somewhat forward and her shoulders naturally move somewhat rearward. *Id.* at col. 8, lines 42-46.

If the side of the pad 28 pressed against the back of the user 48 is the “first side” and the opposite side is the “second side” as required by Claim 1, the opposite side of the pad 28 disclosed in Lemire is not configured to rest on a surface. Rather, the opposite side of the pad 28 is suspended in mid-air. The purpose of the belt 10 is to support the back of the user 48 on a stationary bicycle 66 or a stair stepping machine 62 that does not include its own back support. *See Lemire*, Figures 6 and 7. Thus, the opposite side of the pad 28 is not configured to rest on any surface.

In addition, the attachment strap 16 disclosed in Lemire is not a “hanging tab” as required by Claim 1. Rather, the attachment strap 16 is designed to be attached around structural members 60 on exercise machines 52. *Id.* at col. 7, lines 17-21. If a user 48 is using exercise equipment 52, such as a stationary bicycle 66 as shown in Figure 7, the attachment strap 16 is affixed to a central structure member 60, such as the handle bar support. *Id.* at col. 8, lines 33-36.

Accordingly, Lemire does not disclose “a second side configured to rest on a surface” or “a hanging tab extending from the main portion,” as required by Claim 1. Therefore, independent Claim 1 and dependent Claims 2-8 and 10-11 are allowable.

Dependent Claims 2-4

Claims 2-4 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Lemire. Claims 2-4 depend from independent Claim 1 and are therefore allowable for the reasons discussed above with respect to Claim 1. Claims 2-4 also specify additional patentable subject matter. Therefore, Claims 2-4 are allowable.

CLAIM REJECTIONS – 35 U.S.C. § 103

Independent Claim 1

Claim 1 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Lemire in view of U.S. Patent No. 6,575,876 issued to Phelps-McMillon (hereinafter “Phelps”).

Claim 1 specifies “A patient-positioning device comprising: a main portion having a first side configured to support a portion of a patient’s body, and a second side configured to rest on a surface; and a hanging tab extending from the main portion.”

Regarding the Lemire device, if the side of the pad 28 on the back of the user 48 is the “first side” and the opposite side is the “second side” as required by Claim 1, the opposite side of the pad 28 is not configured to rest on a surface. Rather, the opposite side of the pad 28 is suspended in mid-air. The purpose of the belt 10 is to support the back of the user 48 on a stationary bicycle 66 or a stair stepping machine 62 that does not include its own back support. *See Lemire*, Figures 6 and 7. Thus, the opposite side of the pad 28 is not configured to rest on any surface.

In addition, the attachment strap 16 taught in Lemire is not a “hanging tab” as required by Claim 1. Rather, the attachment strap 16 is designed to be attached around structural members 60 on exercise machines 52. *Id.* at col. 7, lines 17-21. If a user 48 is using exercise equipment 52, such as a stationary bicycle 66 as shown in Figure 7, the attachment strap 16 is affixed to a central structure member 60, such as the handle bar support. *Id.* at col. 8, lines 33-36.

Phelps does not cure the deficiencies of Lemire. Phelps teaches a support belt device for allowing a user to walk or run on a treadmill without holding on to the treadmill handle. *Phelps*, Abstract. The support belt device 10 includes a panel 12. *Id.* at col. 3, lines 46-47. The panel 12 includes a relatively soft and resiliently elastomeric material such as foam. *Id.* at col. 3, lines 53-55. A covering member 24 covers and is securably attached to the panel 12. The covering member 24 may include a synthetic material such as vinyl. *Id.* at col. 3, lines 60-63. As shown in Figure 1 of Phelps, a user steps onto the treadmill and positions the support belt device 10

around his waist. *Id.* at col. 4, lines 56-57. Similar to Lemire, Phelps teaches that the side of the panel 12 opposite to the user is suspended in mid-air and is not configured to rest on any surface. In addition, the support belt device 10 of Phelps does not include a hanging tab as required by Claim 1.

Accordingly, neither Lemire nor Phelps teaches or suggests “a second side configured to rest on a surface” or “a hanging tab extending from the main portion,” as required by Claim 1. Therefore, independent Claim 1 and dependent Claims 2-8 and 10-11 are allowable.

Dependent Claims 2-8 and 10-11

Claims 2-8 and 10-11 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Lemire in view of Phelps. Claims 2-8 and 10-11 depend from independent Claim 1 and are therefore allowable for the reasons discussed above with respect to Claim 1. Claims 2-8 and 10-11 also specify additional patentable subject matter. Therefore, Claims 2-8 and 10-11 are allowable.

Dependent Claim 7 specifies “wherein the vinyl is latex-free and contains antimicrobial agents to help prevent the growth of bacteria on the patient-positioning device.” On page 3 of the Office action, the Examiner stated that it is old and well known to use an antimicrobial agent to prevent germs from passing from one person to another. Applicants respectfully traverse this assertion and respectfully request that the Examiner provide a reference to support this assertion.

Dependent Claim 8 specifies “wherein the hanging tab is integrally molded to the substantially impermeable cover.” On page 3 of the Office action, the Examiner stated that the tab could be molded to the vinyl material. Applicants respectfully request that the Examiner provide a reference to support this assertion.

Dependent Claim 10 specifies “wherein the substantially impermeable cover is imprinted with a label including at least one of (a) an intended use for the patient-positioning device, (b) a part number for reordering the patient-positioning device, and (c) a date on which the patient-positioning device was manufactured.” On page 3 of the Office action, the Examiner stated that

its is old and well known to put labels on a device. Applicants respectfully traverse this assertion and respectfully request that the Examiner provide a reference to support this assertion.

Dependent Claim 11 specifies “wherein the substantially impermeable cover is a bright color in order to help prevent against unintentional disposal.” On page 3 of the Office action, the Examiner stated that its is old and well known to make the device a specific color. Applicants respectfully traverse this assertion and respectfully request that the Examiner provide a reference to support this assertion.

Independent Claim 18

Claim 18 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Lemire in view of Phelps, along with U.S. Patent No. 5,806,692 issued to Pepper (hereinafter “Pepper”).

Claim 18 specifies “A patient-positioning device system comprising: a plurality of patient-positioning devices, each one of the plurality of patient-positioning devices including a main portion having a first side configured to support a portion of a patient’s body; and a second side configured to rest on a surface; and a storage rack from which each one of the plurality of patient-positioning devices can be hung.”

Regarding the Lemire device, if the side of the pad 28 on the back of the user 48 is the “first side” and the opposite side is the “second side” as required by Claim 18, the opposite side of the pad 28 is not configured to rest on a surface. Rather, the opposite side of the pad 28 is suspended in mid-air. The purpose of the belt 10 is to support the back of the user 48 on a stationary bicycle 66 or a stair stepping machine 62 that does not include its own back support. *See Lemire*, Figures 6 and 7. Thus, the opposite side of the pad 28 is not configured to rest on any surface.

In addition, the attachment strap 16 taught in Lemire is not a “hanging tab” as required by Claim 18. Rather, the attachment strap 16 is designed to be attached around structural members 60 on exercise machines 52. *Id.* at col. 7, lines 17-21. If a user 48 is using exercise equipment

52, such as a stationary bicycle 66 as shown in Figure 7, the attachment strap 16 is affixed to a central structure member 60, such as the handle bar support. *Id.* at col. 8, lines 33-36.

Phelps does not cure the deficiencies of Lemire. Similar to Lemire, Phelps teaches that the side of the panel 12 opposite to the user is suspended in mid-air and is not configured to rest on any surface. In addition, the support belt device 10 of Phelps does not include a hanging tab, as required by Claim 18.

Pepper does not cure the deficiencies of Lemire and Phelps. Pepper does not teach a patient-positioning device including a second side configured to rest on a surface or a hanging tab. Also, Pepper does not teach a storage rack from which a patient-positioning device can be hung. Pepper teaches a personal communication device (pager) storage rack 10 including a vertical panel 12 that is connected to a horizontal holding tray 14 which is connected to an angular attaching surface 16. *Pepper*, Figure 10, col. 6, lines 56-59. The storage rack 10 is designed to hold a pager in a manner such that the alpha numeric display can be easily read if the display is positioned in the line of site of the pager attendant. *Id.* at Abstract, Figure 8.

On page 3 of the Office action, the Examiner stated that it would have been obvious to use a storage rack as taught by Pepper to store the patient positioning devices in order to keep the devices for later use or to have a plurality of devices that could be used by different size users. Applicants respectfully traverse this assertion and respectfully request that the Examiner provide a citation from the specification of Pepper or another piece of prior art to support this assertion. The pager storage rack 10 taught by Pepper is not suitable for use as a storage rack for anything other than pagers, much less for one or more patient-positioning devices.

Accordingly, none of Lemire, Phelps, or Pepper teaches or suggests “a second side configured to rest on a surface,” “a hanging tab extending from the main portion,” or “a storage rack from which each one of the plurality of patient-positioning devices can be hung,” as required by Claim 18. Therefore, independent Claim 18 and dependent Claims 19-25, 27-29, and 37-38 are allowable.

Dependent Claims 19-25, 27-29, and 37-38

Claims 19-25, 27-29, and 37-38 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Lemire in view of Phelps, along with Pepper. Claims 19-25, 27-29, and 37-38 depend from independent Claim 18 and are therefore allowable for the reasons discussed above with respect to Claim 18. Claims 19-25, 27-29, and 37-38 also specify additional patentable subject matter. Therefore, Claims 19-25, 27-29, and 37-38 are allowable.

ALLOWABLE SUBJECT MATTER

Applicants appreciate the indication of allowable subject matter in Claims 9, 12-17, 26, 30-36, and 39-41. Applicants have amended Claims 9, 12, 13, 26, 30, 31, 32, and 39 into independent form by incorporating all of the limitations of the base claim and any intervening claims. Applicants respectfully request allowance of new independent Claims 9, 12, 13, 26, 30, 31, 32, and 39, and dependent Claims 14-17, 33-36, and 40-41.

Applicants also appreciate the allowance of Claims 42-45.

CONCLUSION

In view of the above, Applicants respectfully request entry of the amendment and allowance of pending Claims 1-45.

Respectfully submitted,



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